

EXHIBIT 9

REDACTED

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

UNITED STATES, et al., :
Plaintiffs, : NO.
: 1:23-cv-00108
: -LMB-JFA
v. :
: GOOGLE LLC, :
: Defendants. :

- HIGHLY CONFIDENTIAL -

August 28, 2025

Videotaped deposition of JASON NIEH, Ph.D., taken pursuant to notice, was held at the office of Dunn Isaacson Rhee, 401 9th Street NW, 8th Floor, Washington, D.C., beginning at 9:03 a.m., on the above date, before Michelle L. Ridgway, a Registered Professional Reporter, Certified Shorthand Reporter, Certified Realtime Reporter, Certified Court Reporter, and Notary Public.

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1 Q. Okay. In addition to those 2 hourly billing rates, do you charge 3 anything else in connection with your 4 work on Google matters, such as work 5 performed by support staff?	1 generally, in this context, means I'm 2 speaking as my -- in my role as my -- 3 as -- as -- in offering my expertise 4 from my independent perspective.
6 A. I don't charge for work 7 performed by support staff.	5 Q. Independent from what?
8 Q. Okay. And do you receive 9 any compensation in connection with work 10 performed by others in connection with 11 your work for Google?	6 A. Independent from the 7 opinions, if you will -- whatever 8 anybody else's opinion is, if you will. 9 I try to offer it from my own 10 perspective, independent of -- and do my 11 own evaluation, if you will, of the -- 12 of the materials that I consider and 13 provide my own views, as opposed to if 14 somebody else were to tell me, well, 15 this is what you should say, then I 16 won't necessarily -- then I would have 17 to evaluate whether or not that makes 18 sense. And if it doesn't make sense to 19 me, then that's not something that I'm 20 going to do.
12 A. Not that I'm aware of. I 13 don't think so.	21 But I want to be able to 22 provide my expertise and my opinions in
14 Q. Okay. You described 15 yourself in the opening pages of your 16 first expert report, which we've marked 17 as Exhibit 1, as an independent expert. 18 What did you mean by the 19 word "independent" in your report, in 20 that context?	
21 A. Sorry. Where are you 22 referring to?	
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1 Q. If you look under -- 2 Exhibit 1, Page 3, Paragraph 8. You 3 say, "I have been asked by counsel for 4 Google to provide my opinions as an 5 independent technical expert." 6 Then on Page 4, 7 Paragraph 12, you write, "I understand 8 my duty as an independent expert," and 9 you refer to "expertise in an 10 independent matter." 11 You refer to the duty as 12 overriding any obligation to any party 13 retaining you as an independent expert. 14 And then you say this report reflects 15 your own independent views. 16 So by my count, you used 17 the phrase "independent" five times in 18 those opening pages of your report. I'm 19 just asking what you mean by 20 "independent" in that context.	1 a way that I'm able to stand behind them 2 because that's my view, my own view. 3 Q. So when you write that you 4 have a duty as an independent expert, 5 you mean your duty as an expert that's 6 offering your own opinions and not 7 someone else's opinions; is that right? 8 A. Yeah. Loosely speaking, 9 that's what I'm intending. That's 10 correct. 11 Q. You also write, "I confirm 12 that I have no conflict of interest." 13 How are you defining 14 "conflict of interest" in that sentence? 15 A. I think the conflict of 16 interest is sort of broadly speaking. 17 But, for example, there's no -- say, for 18 example, my compensation on the 19 assignment is not contingent on any -- 20 on any specific outcome or view that I 21 express with respect to the work that 22 I'm doing.
21 A. Sure. 22 So, "independent,"	

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<p>1 So that's what I mean by --</p> <p>2 my wife is not a director, board</p> <p>3 director at Google, for example. At</p> <p>4 least not as far as I know of.</p> <p>5 So, generally speaking,</p> <p>6 that's what I'm referring to as conflict</p> <p>7 of interest.</p> <p>8 Q. Okay. But obviously you</p> <p>9 are being compensated for Google for</p> <p>10 your time on this matter, correct?</p> <p>11 A. Correct.</p> <p>12 MR. BITTON: Objection to</p> <p>13 form.</p> <p>14 THE WITNESS: I am -- I am</p> <p>15 being compensated for my -- for</p> <p>16 the time that I spend on this</p> <p>17 matter, as is generally the case</p> <p>18 when I do work.</p> <p>19 BY MS. WOOD:</p> <p>20 Q. Okay. Now, Exhibit 1,</p> <p>21 Appendix B, you have a list of materials</p> <p>22 relied upon. And different folks do</p>	<p>1 have been marked as Exhibits 1, 2, and</p> <p>2 3.</p> <p>3 A. Okay.</p> <p>4 Q. Each of them has an</p> <p>5 Appendix B, Materials Relied Upon,</p> <p>6 correct?</p> <p>7 A. Correct.</p> <p>8 Q. And I'm asking is it the</p> <p>9 case that every material that you relied</p> <p>10 upon for purposes of rendering your</p> <p>11 opinions in this case are listed in</p> <p>12 either Appendix B of Exhibit 1,</p> <p>13 Appendix B of Exhibit 2, or Appendix B</p> <p>14 of Exhibit 3?</p> <p>15 A. That was certainly the</p> <p>16 goal. That's what I tried to do.</p> <p>17 Q. And did you separately --</p> <p>18 strike that.</p> <p>19 On Page 11 of Appendix B in</p> <p>20 Exhibit 1, you have a note that's in</p> <p>21 bold and italics and with two asterisks</p> <p>22 that says, "I also relied on any other</p>
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<p>1 this differently.</p> <p>2 I want to understand how</p> <p>3 you understand the material that's</p> <p>4 reflected in Appendix B.</p> <p>5 When you say, "Materials</p> <p>6 Relied Upon," are these all the</p> <p>7 materials that you considered or just</p> <p>8 the ones that you relied on for purposes</p> <p>9 of reaching your opinions in this case?</p> <p>10 A. Appendix B, which refers to</p> <p>11 materials relied upon, are -- are the</p> <p>12 materials that I relied upon for the</p> <p>13 opinions that I have expressed in my</p> <p>14 reports.</p> <p>15 Q. Okay. And Appendix B to</p> <p>16 Exhibits 1, 2, and 3, collectively,</p> <p>17 retain -- contain a reference, all the</p> <p>18 materials that you relied upon to reach</p> <p>19 your opinions in this case, correct?</p> <p>20 A. I'm sorry. I don't follow</p> <p>21 your question. So maybe you can --</p> <p>22 Q. So each of your reports</p>	<p>1 documents and materials cited in this</p> <p>2 Report, but not mentioned in this</p> <p>3 Appendix B."</p> <p>4 What was the distinction</p> <p>5 between those materials that got the</p> <p>6 vaulted status of being included in</p> <p>7 Appendix B -- I'm being a little</p> <p>8 cheeky -- versus just otherwise being</p> <p>9 cited in your report?</p> <p>10 How did you decide which</p> <p>11 was which?</p> <p>12 MR. BITTON: Objection to</p> <p>13 form.</p> <p>14 THE WITNESS: I'm not sure</p> <p>15 about vaulted status, per se;</p> <p>16 however, my goal was to have all</p> <p>17 the materials that I relied upon</p> <p>18 listed in Appendix B.</p> <p>19 But in some -- in a few</p> <p>20 cases there may have been errors</p> <p>21 of omission. And, as a result</p> <p>22 of that, I didn't want to -- and</p>

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<p>1 in those cases, I just wanted to 2 indicate that there -- there may 3 have been, you know, citations 4 that are described in the rest 5 of the report, and clearly those 6 citations also indicate things 7 that I relied upon.</p> <p>8 BY MS. WOOD:</p> <p>9 Q. Okay. So it's sort of a 10 catchall. That if you didn't otherwise 11 include it, certainly, if it's cited in 12 your report, you're relying on it; is 13 that fair?</p> <p>14 A. That's correct. Yes.</p> <p>15 Q. Okay. How did you 16 determine -- strike that.</p> <p>17 I assumed that you reviewed 18 a broader set of materials than the 19 materials that you ended up relying on 20 for purposes of reaching your opinion.</p> <p>21 Is that a fair assumption?</p> <p>22 A. That is correct.</p>	<p>1 answer my question. Let me -- let me 2 try it this way.</p> <p>3 You refer to testimony 4 provided at depositions taken in this 5 case. Were you given access to all 6 depositions taken in this case, whether 7 it was liability phase or remedies 8 phase?</p> <p>9 A. So as far as I know, I was 10 given access to everything that I needed 11 to -- to render the opinions that I 12 provided in my reports.</p> <p>13 Q. Who decided whether you 14 needed something for purposes of 15 rendering an opinion?</p> <p>16 MR. BITTON: Just as a 17 caution, I'm just going to 18 instruct the witness not to 19 reveal communications with 20 counsel or support.</p> <p>21 Otherwise, you can answer 22 that question.</p>
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<p>1 Q. And, first, let's start 2 with what materials did you have access 3 to review in connection with your work 4 on this matter? What materials were you 5 provided?</p> <p>6 A. Well, I mean, if we turn 7 to, I think, the beginning of my report, 8 I discussed in the methodology 9 section --</p> <p>10 Q. What page are you on?</p> <p>11 A. Page 4.</p> <p>12 Q. Yes.</p> <p>13 A. So that I reviewed, for 14 example, you know, the notice of 15 proposed remedies, technical 16 documentation and source code produced 17 in this case, interrogatory responses, 18 testimony taken at depositions, and 19 other documents produced in this 20 litigation, as well as a wide variety of 21 public documentation that was available.</p> <p>22 Q. Well, this doesn't quite</p>	<p>1 BY MS. WOOD:</p> <p>2 Q. Well, I don't want you to 3 reveal anything you said to your 4 lawyers. I'm not trying to -- to invade 5 that privilege.</p> <p>6 What I'm asking -- or the 7 stipulation between the parties on that 8 subject.</p> <p>9 What I'm asking is how did 10 you get the materials? Did the lawyers 11 give you the materials? You can just 12 answer that yes/no, without saying 13 anything about your communications with 14 them.</p> <p>15 A. So in some cases lawyers 16 provided me with materials but not in 17 all cases.</p> <p>18 Q. Okay. And with respect to 19 the depositions that you reviewed, were 20 there any depositions that -- other than 21 the ones listed in Appendix B, or 22 otherwise referenced in the reports,</p>

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1 that you did review but didn't rely on? 2 A. I reviewed a lot of 3 material in this case. I don't remember 4 every deposition that I reviewed. It is 5 certainly possible, and likely, that I 6 reviewed depositions that may not be 7 listed here, because I considered them 8 but ended up not relying on them. 9 Q. Do you -- in terms of order 10 of magnitude, there are 15 deposition 11 transcripts referenced -- there are 14 12 on -- in Exhibit 1. And I think 13 Mr. Wolf is listed in one of the 14 subsequent reports. 15 So by my count, you 16 reviewed 15 deposition transcripts. 17 There were many multiples of that 18 depositions taken. 19 So what I'm trying to 20 understand is were you given access to 21 all of the depositions that were taken 22 in the liability phase and the remedies	1 do this, given all the instructions. My 2 apologies. 3 But it was not just 4 whatever else somebody told me, here 5 is -- here is stuff, and you can see 6 them only. 7 Q. Okay. So, for example, 8 this list of deposition transcripts 9 is -- consists of two-thirds of the 10 deposition transcripts you reviewed were 11 of Google employees. I can just 12 represent that math to you, because 13 there were 10 out of 15 that were Google 14 employees. 15 Do you know how many third 16 parties were deposed in connection with 17 this case, and do you know why -- how 18 many third-party deposition transcripts 19 you reviewed? 20 MR. BITTON: Objection to 21 form. 22 BY MS. WOOD:
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1 phase of this matter, or were you only 2 given access to those that someone else 3 thought were relevant to your opinions? 4 A. I was not only given access 5 to depositions that someone else thought 6 was relevant to my opinions. 7 But with respect to the 8 other question, you're asking me was I 9 given access to all depositions. I 10 don't even know how to -- I don't know 11 how to say -- how do I -- how do I 12 phrase this? 13 Q. It's usually best if you 14 just say it. 15 A. I don't know if I -- I 16 suspect it's not all, but I don't know 17 what "all" is. I guess that's my 18 answer, right? 19 Q. Okay. 20 A. I was given access to 21 whatever -- whatever was produced for 22 sure that -- that -- I don't know how to	1 Q. Meaning, parties not -- 2 individuals not employed by Google. 3 MR. BITTON: Objection to 4 form. 5 THE WITNESS: I do not 6 know how many third parties were 7 deposed in this case. 8 BY MS. WOOD: 9 Q. Okay. And did you ask to 10 see the deposition transcripts of all 11 the third parties that were deposed in 12 this case? 13 MR. BITTON: I'm going to 14 instruct the witness not to 15 reveal any communications with 16 counsel or support. 17 MS. WOOD: Well, I'm not 18 asking about the communication 19 itself. 20 BY MS. WOOD: 21 Q. I'm asking about the 22 materials you had access to for purposes

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1 of arriving at your opinion.	1 I also considered. And that was
2 And I just want to know if	2 sufficient for me to substantiate the
3 you had access -- maybe you can answer	3 opinions that I expressed in my three
4 it. But if you had access to all the	4 reports.
5 depositions or only some.	5 And so that's what I mean
6 MR. BITTON: Just to	6 by I had access to what was necessary
7 clarify the instruction. You	7 for me to write my reports.
8 can't reveal communications, but	8 Q. Okay. So your
9 you can answer what you had	9 definition --
10 access to.	10 MR. BITTON: Counsel,
11 I think that's the	11 we're more -- we're well over an
12 distinction I'm trying to draw	12 hour, so let's take a break.
13 here.	13 BY MS. WOOD:
14 THE WITNESS: I had access	14 Q. Your definition of what you
15 to what was -- what I needed to	15 needed is --
16 for doing my reports. I don't	16 MR. BITTON: Counsel, I
17 know if I can represent --	17 asked -- I requested a break,
18 I'm -- if I had to guess, I	18 and you're just ignoring me.
19 certainly didn't read all the	19 MS. WOOD: We are in the
20 depositions. I don't know if	20 middle of a -- I can ask one
21 there were some that I didn't	21 more question. Can you wait for
22 have access to.	22 a break for me to ask one more
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1 So I hope that answers	1 question?
2 your question.	2 MR. BITTON: I asked for a
3 BY MS. WOOD:	3 break. I guess you're not
4 Q. Well, I guess I'm not clear	4 accommodating that courtesy.
5 on how you know you had access to what	5 MS. WOOD: Of course I'm
6 you needed if you don't know what you	6 accommodating the break, but I
7 didn't get.	7 think you're interrupting --
8 MR. BITTON: Objection to	8 MR. BITTON: Second time
9 form.	9 you ignored me when I asked
10 BY MS. WOOD:	10 that, counsel.
11 Q. How do you know you had	11 MS. WOOD: That is not
12 access to what you needed if you don't	12 true. I asked the witness last
13 know whether you got all the material	13 time, and when the witness said
14 that was available?	14 yes, I said absolutely.
15 A. Because I produced three	15 I'd like to finish this
16 reports, and I expressed the opinions	16 line of examination. I don't
17 that I had in the three reports.	17 think that's in any way
18 Certainly, that is based on the material	18 unorthodox or inappropriate.
19 that I relied upon.	19 MR. BITTON: Counsel, last
20 I certainly had access to	20 time and this time when I asked
21 more material than what I relied upon,	21 the question, you kept on asking
22 because there were other materials that	22 your questions, and you

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<p>1 opinions in this matter, correct?</p> <p>2 A. Exhibit 4 is material that</p> <p>3 I relied on as part of the opinions that</p> <p>4 I've expressed in my reports.</p> <p>5 Q. Okay. And Exhibit 4 has a</p> <p>6 title at the top, Slaughter and May.</p> <p>7 Do you see that?</p> <p>8 A. I see Slaughter and May at</p> <p>9 the top of Exhibit 4.</p> <p>10 Q. And Slaughter and May is</p> <p>11 the law firm that retained you in</p> <p>12 connection with the European Commission</p> <p>13 matter, correct?</p> <p>14 A. Slaughter and May is one of</p> <p>15 the law firms that retained me as part</p> <p>16 of my work in the European Commission</p> <p>17 matter.</p> <p>18 Q. And for what purpose did</p> <p>19 you rely -- what aspects of this</p> <p>20 document did you rely upon in reaching</p> <p>21 your opinions in this case?</p> <p>22 A. My recollection is that</p>	<p>1 materials that I relied upon, a variety</p> <p>2 of materials that I relied upon.</p> <p>3 I, in some cases, may have</p> <p>4 been conservative in terms of the list</p> <p>5 of documents that I provided, but it is</p> <p>6 something that I certainly considered as</p> <p>7 part of my analysis, prior to July 7th.</p> <p>8 Q. Well, we talked earlier</p> <p>9 today, and I asked you specifically what</p> <p>10 you meant by "materials relied upon,"</p> <p>11 and you explained those were materials</p> <p>12 that you relied upon as distinct from</p> <p>13 materials that you considered, right?</p> <p>14 MR. BITTON: Objection to</p> <p>15 form.</p> <p>16 BY MS. WOOD:</p> <p>17 Q. Do you recall that?</p> <p>18 A. Yes, I do. And I would say</p> <p>19 that that is certainly generally the</p> <p>20 case.</p> <p>21 But what I try to do in</p> <p>22 terms of my practice in -- in writing</p>
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<p>1 Dr. Bjedov presented some discussion of</p> <p>2 timeframes in relationship to this</p> <p>3 document, and as part of that, given</p> <p>4 that she presented that relation to the</p> <p>5 document, my report responds to some of</p> <p>6 her claims.</p> <p>7 Q. Well, you understand that</p> <p>8 you relied on this document and listed</p> <p>9 this document in your Materials Relied</p> <p>10 Upon before -- on or before July 7,</p> <p>11 2025; isn't that right?</p> <p>12 A. Correct.</p> <p>13 Q. And as of July 7, 2025, you</p> <p>14 weren't aware of Dr. Bjedov's report,</p> <p>15 correct?</p> <p>16 A. That is correct.</p> <p>17 Q. So you relied on this</p> <p>18 document, in your own report, to reach</p> <p>19 your own conclusions as of July 7, 2025,</p> <p>20 correct?</p> <p>21 A. So it was certainly the</p> <p>22 case that I tried to list my -- the</p>	<p>1 the reports is, for the various opinions</p> <p>2 and in various sections of the report</p> <p>3 that I wrote, that there are a variety</p> <p>4 of citations that you may find</p> <p>5 throughout the reports.</p> <p>6 And what I'm indicating is</p> <p>7 there may be some materials that are</p> <p>8 listed in the Materials Relied Upon</p> <p>9 portion of the appendix for which I</p> <p>10 provide no direct citation in the other</p> <p>11 portion of the report.</p> <p>12 So it's certainly something</p> <p>13 that I read and, in that sense, relied</p> <p>14 on, but I don't recall whether or not</p> <p>15 there was a direct opinion expressed in</p> <p>16 my report, based on this specific</p> <p>17 document. So that's all I'm trying to</p> <p>18 represent to you.</p> <p>19 Q. What do you understand</p> <p>20 Exhibit 4 to be?</p> <p>21 A. Do you mind if I take a</p> <p>22 moment to review?</p>

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1	Q. Sure.	1	connection with your work on the
2	A. Thank you.	2	European Commission matter with
3	Q. And while you're reviewing	3	Slaughter and May, did you recall
4	it, let me just ask one other question,	4	reviewing [REDACTED]
5	and then I'll repeat my last question.	[REDACTED]	[REDACTED]?
6	When you reviewed Exhibit 4	7	MR. BITTON: Objection to
7	in connection with this matter, were	8	form.
8	portions of it redacted, the same	9	THE WITNESS: I'm sorry.
9	portions redacted as I've just shown you	10	Can you repeat the question,
10	in Exhibit 4, or did you have a version	11	please.
11	of this document with no redactions?	12	BY MS. WOOD:
12	A. I don't recall ever seeing	13	Q. Putting aside the format or
13	this document without redactions.	14	the heading, as a substantive matter in
14	Q. Okay. And in connection	15	connection with your work in the
15	with your work with the European	16	European Commission matter with
16	Commission matter, did you ever see this	17	Slaughter and May, do you recall
17	document without redactions at the time	18	reviewing [REDACTED]
18	you were working for Slaughter and May?	[REDACTED]	[REDACTED]?
19	A. In connection with the work	21	A. Outside of the -- just to
20	on the European Commission matter, I	22	be clear, outside of the context of the
21	don't recall ever seeing this document.		
22	Q. When was the first time you		
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1	recall ever seeing the document?	1	reports that I myself wrote, I don't
2	A. In my work on this case.	2	recall such documents.
3	Q. When?	3	Q. Okay. And sorry. Take
4	A. Sometime within the last	4	your time to look at the document.
5	couple months, I think.	5	A. Okay. Thank you.
6	Q. And how confident are you	6	Q. Just to refresh, my
7	that at the time that you were working	7	question that was pending before I
8	on the European Commission matter with	8	interrupted myself and you was what do
9	Slaughter and May, you never saw any	9	you understand Exhibit 4 to be?
10	version of this document, Exhibit 4?	10	Can you answer my question?
11	MR. BITTON: Objection to	11	A. Yeah. [REDACTED]
12	form. Asked and answered.	[REDACTED]	[REDACTED]
13	THE WITNESS: I would say	[REDACTED]	[REDACTED]
14	I'm highly confident. I don't	[REDACTED]	[REDACTED]
15	recall anything -- reviewing	[REDACTED]	[REDACTED]
16	anything in the context that --	[REDACTED]	[REDACTED]
17	that looked like this, with the	[REDACTED]	[REDACTED]
18	heading and everything that	[REDACTED]	[REDACTED]
19	you've described.	19	Q. And do you see [REDACTED]
20	BY MS. WOOD:	[REDACTED]	, for example?
21	Q. Putting aside the format or	21	MR. BITTON: Objection to
22	the heading, as a substantive matter in	22	form.